

EXHIBIT A

Page 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X

IN RE: Chapter 11
Case No. 01-01139 (JFK)
W.R. GRACE & CO., ET AL.,
Debtors.

-----X

DEPOSITION OF FRANCO SEIF
New York, New York
Monday, March 26, 2007

Reported by:
AYDIL M. TORRES
JOB NO. 1-524

1
2
3 March 26, 2007
4 11:15 a.m.
5

6 Deposition of FRANCO SEIF,
7 held at the offices of Hahn &
8 Hessen, LLP, 488 Madison Avenue,
9 New York, New York, pursuant to
10 Notice, before AYDIL M. TORRES, a
11 Notary Public of the State of
12 New York.
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2 STIPULATIONS
3

4 IT IS HEREBY STIPULATED AND AGREED
5 by and between the attorneys for the
6 respective parties herein, that filing,
7 sealing and certification be and the
8 same are hereby waived.
9

10 IT IS FURTHER STIPULATED AND AGREED
11 that all objections, except as to the
12 form of the question shall be reserved
13 to the time of the trial.
14

15 IT IS FURTHER STIPULATED AND AGREED
16 that the within deposition may be signed
17 and sworn to before any officer
18 authorized to administer an oath, with
19 the same force and effect as if signed
20 and sworn to before the Court and that a
21 copy of this examination shall be
22 furnished without charge to the attorney
23 representing the witness testifying
24 herein.
25

1
2 APPEARANCES:
3

4 HAHN & HESSEN, LLP
5 Attorneys for Franco Seif
6 488 Madison Avenue
7 New York, New York 10022
8 BY: STEVEN J. MANDELSBERG, ESQ.
9

10 REED SMITH, LLP
11 Attorneys for Debtor
12 435 Sixth Avenue
13 Pittsburgh, PA 15219
14 BY: TRACI S. REA, ESQ.
15
16
17
18
19
20
21
22
23
24
25

1
2 FRANCO SEIF,
3 called as a witness, having been
4 duly sworn by a Notary Public, was
5 examined and testified as follows:
6

7 EXAMINATION BY
8 MS. REA:

9 Q. Good morning, Mr. Seif. My name is
10 Traci Rea and I represent the debtors in this
11 bankruptcy proceeding.

12 Can you please state your full name
13 for the record?

14 A. First name Franco. F-R-A-N-C-O.
15 Last name is Seif. "S" as in Sam, E-I-F as
16 in Frank.

17 Q. Mr. Seif, have you been deposed
18 before?

19 A. Yes.

20 Q. On approximately how many
21 occasions?

22 A. Probably over twenty times.

23 Q. In connection with what types of
24 proceedings?

25 A. Lawsuits, defendant, plaintiffs.

These types of proceedings. I'm not sure

3 (Pages 6 to 9)

Page 6

Page 8

1 Franco Seif

2 exactly what kind of -

3 Q. What types of claims were at issue
4 in those lawsuits?

5 Do you recall?

6 A. A couple of them were related to
7 asbestos. Some of them were related to mold.8 Q. So you're fairly familiar with the
9 deposition process. We have a court reporter
10 here who is going to be taking down
11 everything that we say.12 So I would ask that you respond
13 verbally and that you keep your voice up so
14 that she can hear everything?15 Also, I would ask that you wait
16 until I finish a question before you answer,
17 and I will try to do the same thing so the
18 record is nice and clear. If you have any
19 questions about one of my questions, please
20 let me know and I'm happy to clarify it.21 If you need to take a break at any
22 time, we're happy to do that as long as there
23 is not a question pending.

24 Okay?

25 A. Yes.

1 Franco Seif

2 MS. REA: Do you have that,
3 Steve, that I can look at or...4 MR. MANDELSBERG: I believe
5 the CV and other documents you're
6 referring to are in the report of
7 Mr. Seif and his firm, dated
8 January 11, 2007 that have already
9 been produced.10 Q. The CV that you brought today is no
11 different than the one that was attached to
12 your report?

13 A. It shouldn't be.

14 Q. Okay.

15 Did you bring copies of the
16 material that you considered or relied upon
17 in drafting your expert report?

18 A. Yes.

19 MS. REA: Do we have copies
20 of those, Steven?21 MR. MANDELSBERG: I believe
22 the material is incorporated in the
23 expert report. You can certainly
24 ask Mr. Seif those questions.

25 Q. Mr. Seif, did you bring any

Page 7

Page 9

1 Franco Seif

2 (A Notice of Deposition was
3 marked as Exhibit 1, for
4 identification, as of this
5 date.)6 Q. I want to give you what has been
7 marked as Exhibit 1 (handing).

8 Have you seen that document before?

9 A. (Witness examines Exhibit 1.)

10 No.

11 Q. Mr. Seif, this is a Notice of
12 Deposition for your deposition here today,
13 and as you can see from this Notice it asks
14 that you bring with you the documents that
15 are attached as Exhibit A.16 Did you bring any documents with
17 you today?

18 A. Yes.

19 Q. What documents did you bring?

20 A. I brought the documents related to
21 this claim.22 Q. Did you bring a copy of a current
23 CV?

24 A. Yes.

25 Q. Okay.

1 Franco Seif

2 documents in addition to your expert report
3 with you today?

4 A. Yes.

5 Q. Could you tell me where those
6 documents are?

7 A. In this office. Here in this room.

8 MS. REA: We can go off the
9 record for just a minute.10 (Whereupon, a discussion was
11 held off the record.)12 MR. MANDELSBERG: In
13 response to the request for
14 documents in connection with the
15 Deposition Notice, which I think
16 was served on counsel for the State
17 of California, not on Mr. Seif
18 personally, Mr. Seif has brought
19 with him documents related to his
20 expert report, which may also
21 include documents that are in the
22 expert report, and it consists of
23 several folders relating to the
24 buildings identified in the expert
25 report, an invoice for professional

Page 10

Page 12

1 Franco Seif
 2 services, and a copy of the
 3 hazardous materials survey that I
 4 believe is identified in his report
 5 as among the items he's reviewed or
 6 relied upon.

7 MS. REA: Thank you very
 8 much.

9 MR. MANDELSBERG: The record
 10 should reflect that the documents I
 11 just generally described have been
 12 handed over to counsel for the
 13 debtors.

14 MS. REA: And I would just
 15 like to mark this as a collective
 16 exhibit, if that's okay, so we can
 17 get a copy and have this on the
 18 record as to what has been
 19 produced.

20 Are there any objections to
 21 that?

22 MR. MANDELSBERG: No, I
 23 don't believe -- the only caveat I
 24 have is I -- we will do that, and
 25 go through it. I don't believe

1 Franco Seif
 2 2 that we've just marked does not
 3 include that copy of the expert
 4 report.

5 MS. REA: Okay. Thank you.

6 Q. And Mr. Seif, to avoid going
 7 through these document by document, can you
 8 tell me if there are any notes from you in
 9 this stack of documents relating to your
 10 expert report?

11 A. There are -- there should be some
 12 observations that I made while walking the
 13 buildings that I took some notes, yes.

14 Q. Would there be any correspondence
 15 or other document reflecting communications
 16 between yourself and any other experts that
 17 have been retained in this litigation, to
 18 your knowledge?

19 A. No.

20 MR. MANDELSBERG: Objection.

21 Q. Mr. Seif, could you briefly outline
 22 for me your educational background?

23 A. I have a Bachelor's of Science
 24 Degree in Civil Engineering.

25 Q. Okay.

Page 11

Page 13

1 Franco Seif
 2 that there is anything in here that
 3 is attorney work product or
 4 attorney/client privileged. If it
 5 is, it will be separated out and
 6 identified in a log, but I don't
 7 think there is any.

8 MS. REA: Okay.

9 MR. MANDELSBERG: So this
 10 will be -- the prior one was
 11 Exhibit 1?

12 MS. REA: Right.

13 MR. MANDELSBERG: Yes, so
 14 this would be Exhibit 2.

15 MS. REA: Yes.

16 (Documents were marked as
 17 Exhibit 2, for
 18 identification, as of this
 19 date.)

20 MR. MANDELSBERG: The
 21 witness also presented, in response
 22 to the question, materials --
 23 brought with him and presented a
 24 copy of the expert report, which
 is, so that it's clear, the Exhibit

1 Franco Seif

2 A. And I have my Asbestos
 3 Certifications from the EPA.

4 Q. Your Civil Engineering Degree, was
 5 from what university?

6 A. Northeastern University.

7 Q. What year did you obtain that?

8 A. 1987.

9 Q. And your asbestos certifications,
 10 what year were those obtained?

11 A. Started 1987.

12 Q. Did you obtain any asbestos
 13 certifications in 1987?

14 A. I started taking the classes in
 15 1987, or it could be early 1988.

16 Q. When did you actually obtain the
 17 certification; do you recall?

18 A. There was a series of classes that
 19 you had to take. It may have started at the
 20 end of 1987 and continued up to 1988.

21 Q. After you obtained your Bachelor's
 22 of Science in Civil Engineering in 1987, what
 23 was your first professional position after
 24 that?

25 A. In the environmental industrial

1 Franco Seif
 2 hygiene industry related to start working
 3 with asbestos.
 4 Q. What firm did you work with?
 5 A. I worked with a company in
 6 Los Angeles called EPI Center.
 7 Q. Did you start with them in
 8 approximately 1987?
 9 A. Yes.
 10 Q. What was your position at that
 11 company?
 12 A. I started as a Junior Civil, Junior
 13 Civil Engineer.
 14 Q. What were your duties, generally,
 15 as a Junior Civil Engineer?
 16 A. Conducting asbestos inspections in
 17 buildings, schools, houses, writing
 18 reports --
 19 Q. Okay.
 20 A. -- from these inspections, writing
 21 management plans for schools, designing
 22 asbestos abatement projects, and I also did
 23 indoor air quality studies.
 24 Q. What does that entail, indoor air
 25 quality studies?

1 Franco Seif
 2 A. At that time, we did testing and
 3 sampling for radon, carbon dioxide --
 4 Q. How about asbestos?
 5 A. And asbestos, of course.
 6 Q. So in the 1987 time period when you
 7 were a Junior Civil Engineer, one of the
 8 things you did was air sample testing for
 9 asbestos in buildings; is that right?
 10 A. I also did air testing, sure.
 11 Q. Okay.
 12 How long did you stay with that
 13 company, EPI Center?
 14 A. Until late '89 or early 1990,
 15 around that time.
 16 Q. Where did you go from there?
 17 A. From there, I started my own
 18 business.
 19 Q. Which is called?
 20 A. At that time, it was called
 21 California Environmental Consultants.
 22 Q. Did you have any partners in that
 23 business?
 24 A. No.
 25 Q. By yourself when you started?

1 Franco Seif
 2 A. Yes.
 3 Q. What did your business do?
 4 A. Exactly what I used to do with EPI
 5 Center.
 6 Q. Is that essentially the same
 7 business that you have today?
 8 A. It has evolved into what it is
 9 today, sure.
 10 Q. Today the name of your business is?
 11 A. Clark Seif Clark, and the "Seif" is
 12 me.
 13 Q. And you have partners?
 14 A. Yes.
 15 Q. Two Clarks?
 16 A. Yes.
 17 Q. Two partners?
 18 A. Yes.
 19 Q. And so today, what types of
 20 consulting services do you provide?
 21 A. Of course, we still provide
 22 asbestos consulting, lead-based paint
 23 consulting, indoor air quality consulting,
 24 general industrial hygiene consulting, health
 25 and safety consulting, Phase 1, Phase 2

1 Franco Seif
 2 environmental site assessments.
 3 Q. Okay?
 4 A. Hazardous waste site
 5 characterization.
 6 Q. The asbestos consulting that you're
 7 doing today, that's the same type of work
 8 that you did starting in 1987; is that right?
 9 A. Yes.
 10 Q. I notice that behind your name
 11 there are several different letters.
 12 Could you tell me what those are?
 13 P-E for one is?
 14 A. P-E. I'm a Registered Civil
 15 Engineer within the State of California.
 16 Q. And I believe another set of
 17 letters was C-A-C.
 18 A. C-A-C stands for CAL-OSHA Asbestos
 19 Consultant.
 20 Q. What is that?
 21 A. In California on top of being
 22 certified by the Environmental Protection
 23 Agency, they have their own State
 24 certification that you have to obtain before
 25 you begin to act as a consultant. So we have

1 Franco Seif
 2 to take asbestos examination that are put
 3 together by the California OSHA, and if you
 4 pass, you become a consultant.

5 Q. When did you obtain that
 6 designation?

7 A. I know I started in 1991. Probably
 8 a year or so after that, maybe. I really do
 9 not recall.

10 Q. The last set of letters I noticed
 11 was R-E-A.

12 Can you tell me what that is?

13 A. R-E-A stands for Registered
 14 Environmental Assessor.

15 Q. What does that entail?

16 A. Also, it is a California
 17 registration that is provided or offered by
 18 the California Environmental Protection
 19 Agency, and you become registered to perform
 20 environmental site assessments.

21 MR. MANDELSBERG: Off the
 22 record.

23 (Whereupon, a discussion was
 24 held off the record.)

25 Q. When did you obtain that

1 Franco Seif
 2 Mr. Connor?
 3 MR. MANDELSBERG: Objection.
 4 About the engagement or
 5 speak to him in any way?
 6 MS. REA: Yes, about the
 7 engagement.

8 A. It had to be the first or second
 9 week of December of 2006.

10 Q. What were you hired to do?
 11 A. I was hired to render an opinion to
 12 the friability of the fireproofing material
 13 that existed in the few State buildings.

14 Q. Had you worked with Mr. Connor
 15 before this engagement?

16 A. Yes.

17 Q. When did you first work with
 18 Mr. Connor?

19 A. Our company has been working for
 20 the State as a consultant for three years,
 21 and during these, you know, that three-year
 22 period we've been engaged in one project with
 23 Mr. Connor. Specifically, the dates, I do
 24 not know.

25 Q. What was the nature of that

1 Franco Seif
 2 designation?

3 A. I do not recall.

4 Q. Okay.

5 A. In the early '90s, I know.

6 Q. That's fine.

7 Mr. Seif, who hired you to prepare
 8 your expert report in this proceeding?

9 A. The State of California, Department
 10 of General Services.

11 Q. Who contacted you for the scope of
 12 this work?

13 A. A person by the name of Glenn
 14 Connor.

15 Q. What is Mr. Connor's position?

16 A. Exact position, I do not know. I
 17 know he is some type of a project manager of
 18 some sort.

19 Q. Do you know if he is with the State
 20 of California, Department of General
 21 Services?

22 A. Yes, I know.

23 Q. He is with them?

24 A. Yes.

25 Q. When did you first speak with

1 Franco Seif
 2 project?

3 A. That project involved the
 4 inspection and conducting assessments on
 5 several State buildings for asbestos.

6 Q. Was that also for litigation?

7 A. No.

8 Q. Do you know what the purpose of
 9 that report was for?

10 A. The State, apparently, they keep
 11 records of the asbestos material in their
 12 buildings as part of their management
 13 planning, the condition of the asbestos
 14 containing material in their buildings as
 15 part of the management planning, something
 16 that they have to do every three years.

17 Q. If we can go back to this
 18 engagement, you said that you were engaged to
 19 determine the friability of asbestos in
 20 various buildings; is that correct?

21 A. Correct.

22 Q. Did that include any sort of
 23 assessments of the risks of exposure to that
 24 asbestos?

25 A. No.

1 Franco Seif

2 Q. So you were just to determine
3 whether or not asbestos containing material
4 in these buildings was friable; is that
5 correct?

6 A. Correct.

7 Q. You were retained, you said, in
8 December of 2006.

9 What did you do during that time
10 period, from 2006, early part of 2007?

11 A. I don't understand.

12 What do you mean, what did I do?

13 Q. Well, you said you were first
14 contacted in 2006, the end of 2006.

15 I'm just trying to get a sense of
16 after you were contacted, did you start work
17 immediately, what did you do?

18 A. Initially, we tried to get in touch
19 with the property manager to get access to
20 some of these buildings.

21 Q. Okay.

22 A. That was the first order of work.

23 Q. And the reason I ask, it seems from
24 your report that the actual inspections that
25 you did were in January of 2007; is that

1 Franco Seif

2 Q. Other than reviewing those reports,
3 did you have any other role in the
4 preparation of the MVA reports?

5 A. I did not have any.

6 Q. How much was your bill for your
7 work on this project?

8 A. I brought the bill with me.

9 Q. Okay.

10 A. A little over \$23,000.

11 Q. Okay.

12 MR. MANDELSBERG: The record
13 should reflect the witness was
14 referring to a portion of Exhibit
15 2.

16 Q. Mr. Seif, can you tell me, what did
17 you do today to prepare for this deposition?

18 A. I met with my Mr. Steve.

19 THE WITNESS: I'm sorry,
20 Steve. I forgot your last name.

21 MR. MANDELSBERG: Mandelsberg.

22 Q. Did you meet with him this morning?

23 A. Yes.

24 Q. Did you meet with anyone else this
25 morning with Mr. Mandelsberg?

1 Franco Seif

2 correct?

3 A. Yes.

4 Q. What did you do in between January
5 of -- well, you were hired, you said, in
6 December of 2006; is that correct?

7 A. Yes.

8 Q. After you were hired to when you
9 first inspected the buildings, what sort of
10 lead work, if any, did you do?

11 MR. MANDELSBERG: Objection.

12 Other than to get access to
13 the buildings?

14 MS. REA: Right.

15 MR. MANDELSBERG: Objection.

16 A. I reviewed the MVA reports that
17 were sent to me.

18 Q. So those reports were generated
19 before you inspected the buildings?

20 A. I recall they were.

21 Q. Other than reviewing those reports,
22 did you have any other role in the
23 preparation of those reports?

24 A. I'm sorry.

25 Could you repeat?

1 Franco Seif

2 A. Yes.

3 Q. Who is that?

4 A. Christina Kang (phonetic).

5 Q. How long did you meet with
6 Mr. Mandelsberg and Ms. Kang?

7 A. From 9:00 to 11:00.

8 Q. What did you discuss in this
9 meeting this morning?

10 MR. MANDELSBERG: Objection.

11 Don't answer.

12 MS. REA: Sorry?

13 MR. MANDELSBERG: Objection.

14 Don't answer. It's

15 privileged.

16 MS. REA: Are you
17 representing Mr. Seif?

18 MR. MANDELSBERG: We are
19 representing the State and he has
20 been engaged on behalf of the State
21 and on behalf of counsel as an
expert. So you're asking him what
22 was discussed between counsel as
23 for privileged information.

24 MS. REA: And the

1 Franco Seif
 2 attorney/client privilege would
 3 apply with respect to a client and
 4 an attorney.

5 Is Mr. Seif your client?

6 MR. MANDELSBERG: The
 7 attorney/client privilege would
 8 apply to an expert retained by or
 9 at the request of counsel to assist
 10 in rendering an expert report.

11 MS. REA: I disagree,
 12 Mr. Mandelsberg, but we will
 13 reserve the right to reask that
 14 question, if we need to, when the
 15 time comes.

16 Q. Mr. Seif, did you review any
 17 documents this morning?

18 A. No.

19 MS. REA: Mark this as
 20 Exhibit 3.

21 And Mr. Mandelsberg, this is
 22 the report of Mr. Seif. I did not
 23 bring another copy, but I would
 24 like to mark this one.

25 (A report was marked as

1 Franco Seif
 2 report with exhibit tabs and which
 3 included cover photographs and what
 4 has been marked as Exhibit 3
 5 appears to be a copy of that.

6 MS. REA: That's correct.

7 Would you rather we mark an
 8 original?

9 MR. MANDELSBERG: No, it
 10 doesn't matter. I'm just noting
 11 that that's not what was actually
 12 produced. We do have a copy of an
 13 original with the color photos,
 14 with the tabs. It may be easier
 15 for Mr. Seif to look at that and
 16 find documents if you're going
 17 to identify specific pages.

18 MS. REA: Okay.

19 MR. MANDELSBERG: Which I
 20 don't see are Bates numbered.

21 MS. REA: If we run into a
 22 problem, we can switch problems. I
 23 think we will because I think the
 24 questions will be straightforward
 25 based on that copy. But you're

1 Franco Seif
 2 Exhibit 3, for
 3 identification, as of this
 4 date.)

5 Q. Mr. Seif, can you please identify
 6 what has been marked as Exhibit 3?

7 A. The cover page appears to be the
 8 expert report that I prepared.

9 Q. Okay.

10 You can flip through it briefly,
 11 but I will represent to you that that is your
 12 expert report. If you see anything in there
 13 that's not, please let me know.

14 A. Just let me review and make sure
 15 that all the pages are here of the body of
 16 the report.

17 Q. Absolutely. Take your time.

18 A. It appears that most -- all the
 19 exhibit are here.

20 Q. Can you keep that in front you?

21 MR. MANDELSBERG: The record
 22 should reflect that what was
 23 actually produced to counsel for
 24 the debtors is Mr. Seif's expert
 25 report was actually an original

1 Franco Seif
 2 right, it's a black and white copy
 3 of the original.

4 Q. Mr. Seif, can you please tell me
 5 what you did to prepare this report?

6 A. I reviewed the documents I
 7 mentioned earlier, and the documents I
 8 reviewed are listed in my report, by the way,
 9 and then I visited the buildings that I
 10 referenced in my report and did a visual
 11 inspection on visiting these buildings.

12 Q. If you can turn to Page 9 of your
 13 report, it should state there "documents
 14 reviewed."

15 Do you see that?

16 A. Yes.

17 Q. Are those the documents that you
 18 reviewed in order to prepare this report?

19 A. Not to prepare the report, but just
 20 to see the work that had already been
 21 prepared for this case. So it kind of gave
 22 me an idea to what other work related to
 23 these buildings relating to asbestos others
 24 have done that could help me or give me an
 25 idea to what is going on in these buildings.

1 Franco Seif

2 Q. Did you review any documents
3 relating to these buildings that are not
4 listed on Page 9 of your report?

5 A. No.

6 Q. Did you review the material that
7 these claimants have submitted in the
8 bankruptcy proceeding to support their claim?

9 MR. MANDELSBERG: Objection.

10 You mean other than the MVA
11 reports?

12 MS. REA: Yes.

13 A. I'm not really clear to what
14 documents you're relating to. That means I
15 did not.

16 Q. Have you seen claim forms submitted
17 by California Department of General Services
18 in the bankruptcy?

19 A. You want to show me an example?

20 Q. Sure. This is an example. I'm not
21 going to mark it, but this is an example of a
22 claim form (handing).

23 Have you seen documents like that?

24 A. (Witness examines document.)

25 No.

1 Franco Seif

2 Q. Mr. Seif, who wrote the report?
3 A. I did.
4 Q. Did you have any drafts of this
5 report?

6 A. I don't have any drafts.

7 Q. Did you discuss this report with
8 counsel before it was finalized?

9 MR. MANDELSBERG: You can
10 answer that yes or no.

11 A. Yes, yes.

12 Q. Did you make any changes to the
13 report as a result of any discussion with
14 counsel?

15 A. I may have changed some grammatical
16 mistakes.

17 Q. Okay.

18 You say in your report that you
19 relied upon the Asbestos Hazard Emergency Act
20 of 1986; is that correct?

21 A. Yes.

22 Q. 6.4 in your documents relied on.
23 What, generally, does that act
24 provide?

25 A. That act provides for the rules and

1 Franco Seif

2 Q. I can have it back.

3 Other than the MVA testing that you
4 have already referenced, did you see any
5 other asbestos survey or asbestos testing
6 with respect to the buildings that are the
7 subject of the report?

8 A. As I stated on Page 9 of my expert
9 report document, I reviewed a survey that was
10 performed by a company called Kleinfelder,
11 and that was for building 714 "P" Street,
12 another supplemental report for that same
13 building, prepared by the same consulting
14 firm, and an updated asbestos survey again by
15 same firm for another address that I visited,
16 which is the 744 "P" Street --

17 Q. Okay.

18 A. - Tower.

19 Q. Do you know if there were any
20 earlier asbestos surveys done for these
21 buildings?

22 A. I do not know.

23 Q. So you didn't see any surveys on
24 these buildings in the 1980s time frame?

25 A. I did not see.

1 Franco Seif

2 regulations under which -- actually, it was
3 drafted to ensure that school buildings are
4 surveyed for asbestos and that management
5 plannings are submitted to the government of
6 each state as they relate to the asbestos
7 hazard in each building.

8 Q. When did you become aware of that
9 act?

10 A. Soon as I became involved in the
11 asbestos industry back in '87.

12 Q. So around 1987?

13 A. Yes.

14 Q. So, Mr. Seif, you have almost
15 twenty years experience in this asbestos
16 area.

17 Can you tell me what you mean by
18 the term "fireproofing"?

19 A. Fireproofing is a material that is
20 applied to steel structures in buildings to
21 allow lead time from the time a fire starts
22 to the building begins to melt.

23 Q. Is that something different from
24 acoustical plaster?

25 A. Acoustical plaster is the

1 Franco Seif
 2 terminology that's used to allow for the
 3 transfer of the noise from one area to the
 4 other. That's the word acoustical.
 5 Q. Are the two materials different?
 6 A. It depends on where they are
 7 applied and how they are applied, but they
 8 should be different.
 9 Q. Where is acoustical plaster
 10 normally applied?
 11 A. Acoustical plaster mostly is
 12 applied inside of an apartment building, that
 13 I have seen, or in office buildings.
 14 Q. Do you understand that fireproofing
 15 is normally applied directly to steel beams
 16 of the structure?
 17 MR. MANDELSBERG: Objection.
 18 You can answer, if you
 19 understand.
 20 A. In most cases it is applied to
 21 steel beams, yes.
 22 Q. Have you ever seen fireproofing
 23 painted?
 24 A. No.
 25 Q. Have you ever seen acoustical

1 Franco Seif
 2 fireproofing applied to steel, and you
 3 noticed in some of these inspections that
 4 there are some overspray, for example.
 5 Have you seen that sort of
 6 overspray in other buildings that you've
 7 inspected?
 8 A. Yes.
 9 MR. MANDELSBERG: Objection.
 10 Q. You saw that over the course of
 11 your career for twenty-some years?
 12 A. Yes.
 13 Q. You also talk about fireproofing
 14 material that's dislodged from the
 15 fireproofing.
 16 Have you seen that as well in your
 17 twenty years experience?
 18 A. Yes.
 19 Q. Is that fairly common to see that
 20 sort of dislodged material?
 21 A. Yes.
 22 Q. How long would that debris and that
 23 dust have been in the building?
 24 MR. MANDELSBERG: Objection.
 25 A. I do not really understand what you

1 Franco Seif
 2 plaster painted?
 3 A. Yes.
 4 Q. Have you ever heard of acoustical
 5 plaster being called fireproofing?
 6 A. No.
 7 Q. You said before that you started
 8 doing this around 1987; is that correct?
 9 A. Yes.
 10 Q. Have you inspected buildings with
 11 fireproofing applied to steel beams and steel
 12 decking in the course of that, approximately,
 13 twenty years?
 14 A. Yes.
 15 Q. Here you inspected some buildings
 16 with that fireproofing; is that right?
 17 A. Yes.
 18 Q. Is what you observed in these
 19 buildings any different than what you've seen
 20 in other buildings in the twenty years of
 21 your experience?
 22 MR. MANDELSBERG: Objection.
 23 A. Just break it down. Let me know
 24 exactly what you mean.
 25 Q. For example, you talked about

1 Franco Seif
 2 mean by how long has it been in the building.
 3 Q. You noted, for example, that there
 4 was debris and dust that had settled on tiles
 5 in the space in between the ceiling and the
 6 fireproofing.
 7 Do you recall that?
 8 A. Yes.
 9 Q. How long would that debris and dust
 10 have been located where it had settled?
 11 MR. MANDELSBERG: Objection.
 12 A. I don't know.
 13 Q. Could it be as long as shortly
 14 after the fireproofing was applied?
 15 MR. MANDELSBERG: Objection.
 16 A. I don't think so. Based on my
 17 experience, you don't apply fireproofing
 18 while -- after you install your dropped
 19 ceiling or your acoustical tile ceiling.
 20 Q. Okay.
 21 Could it be there shortly after
 22 application, a year after application?
 23 MR. MANDELSBERG: Objection.
 24 A. It could be.
 25 Q. Now, you say in your report, you

1 Franco Seif
 2 claim that vibration in the building caused
 3 fiber release.
 4 How long have you had that opinion?
 5 A. How long have I --
 6 MR. MANDELSBERG: Objection.
 7 You can answer if you
 8 understand.
 9 A. How long have I had this opinion?
 10 Q. Uh-huh.
 11 A. The first class that I took about
 12 asbestos.
 13 Q. Okay.
 14 So that was around 1987/88?
 15 A. Yes.
 16 Q. Have you told building owners that
 17 vibration can cause fiber release?
 18 A. Yes.
 19 Q. Would you say that's fairly common
 20 knowledge?
 21 A. To whom? I'm sorry. I mean, it's
 22 not common knowledge. I mean, you have to be
 23 -- you have to tell somebody. If you're not
 24 in the asbestos industry, you wouldn't know.
 25 You have to be told.

1 Franco Seif
 2 Q. In the asbestos industry, would you
 3 say that's fairly common knowledge since
 4 1987?
 5 A. Since the rule was written, yes.
 6 Q. You've told building owners in
 7 buildings that you've inspected that that's
 8 the case; is that correct?
 9 A. If we are conducting assessments,
 10 yes.
 11 Q. You said you tested for asbestos in
 12 other buildings over the past twenty years;
 13 is that right?
 14 A. Yes.
 15 Q. What different types of testing did
 16 you conduct in that time period?
 17 A. What do you mean by "different
 18 types of testing"?

19 Q. I think we talked about air
 20 testing.
 21 Do you recall air testing?
 22 A. Yes.
 23 Q. You have conducted air testing in
 24 buildings since the mid 1980s; is that right?
 25 A. Yes.

1 Franco Seif
 2 Q. And have you done bulk sample
 3 analysis?
 4 A. Yes.
 5 Q. How long have you been doing that?
 6 A. Same period.
 7 Q. Are there other types of testing
 8 relating to asbestos that you can think of?
 9 A. Yes.
 10 Q. What other testing?
 11 A. We've done surface dust sampling.
 12 Q. Okay.
 13 When did you start doing that?
 14 A. In the early '90s it became more
 15 prevalent to do dust sampling.
 16 Q. What does that entail?
 17 A. It entails vacuuming, in a simple
 18 term, dust from a surface into a filter, into
 19 a cassette that contains a filter, and then
 20 into a cassette -- I'm sorry. Vacuuming a
 21 known surface area into a cassette that has a
 22 filter, and then taking that cassette to the
 23 lab for analysis to find the concentrations
 24 of asbestos fibers.
 25 Q. Any other testing that you can

1 Franco Seif
 2 think of?
 3 A. Not at this time.
 4 Q. Okay.
 5 Mr. Seif, I'm going to refer you to
 6 Page 3 of your report. You can take the clip
 7 off, if it helps.
 8 And on Page 3, the second sentence,
 9 I believe, says, "The case involves claims
 10 for damages filed by DGS against W.R. Grace
 11 as the manufacturer of known asbestos-
 12 containing construction products that are
 13 present in sixteen DGS building sites."
 14 Do you understand that there are
 15 sixteen DGS building sites that are at issue
 16 in this case?
 17 A. Yes.
 18 Q. It later states that you inspected
 19 six building sites.
 20 Why only six of the sixteen?
 21 A. Due to the lack of time between the
 22 date of the assignment and the date that the
 23 report was due, we had to select these sites
 24 so I would have the time to visit them and be
 25 able to produce report.

1 Franco Seif
 2 Q. How did you select the six sites
 3 that you visited?
 4 A. I did not select them.
 5 Q. Who selected them?
 6 A. I assume the State. They were sent
 7 to me, you know...
 8 Q. Do you know why those six buildings
 9 were chosen over the other ten?
 10 A. Yes.
 11 Q. Why?
 12 A. Due to the value of the claim of
 13 these buildings.
 14 Q. Do you have any information
 15 regarding the other ten buildings that
 16 weren't inspected?
 17 MR. MANDELSBERG: Objection.
 18 A. What do you mean by information?
 19 Q. Did you inspect those buildings
 20 subsequent to this report?
 21 A. No.
 22 Q. Did you come to any conclusion on
 23 those buildings at any time?
 24 A. Other than if they contain the same
 25 type of material than from just an expert

1 Franco Seif
 2 opinion, but they may have the same
 3 conditions, the same type of material as
 4 those other buildings.
 5 Q. But you don't know, sitting here
 6 today, what type of material are contained in
 7 those buildings, do you?
 8 A. I presume I reviewed the MVA
 9 reports which has the same type of analysis
 10 as the other ones. That clarifies that point
 11 for me.
 12 Q. Other than the information
 13 contained in the MVA reports for those
 14 buildings, do you have any other information
 15 regarding any alleged asbestos in those
 16 buildings?
 17 A. No.
 18 Q. You did not prepare those MVA
 19 reports; is that correct?
 20 A. Correct.
 21 Q. In the second paragraph, in the
 22 introduction, you state that, "The purpose of
 23 my retention was to inspect areas of the DGS
 24 buildings where these WR Grace materials are
 25 present."

1 Franco Seif
 2 What is the basis for the
 3 statement there that it is WR Grace materials
 4 that are present in these buildings?
 5 A. Based on the MVA report.
 6 Q. And solely on the MVA report?
 7 A. Yes.
 8 Q. You didn't do any independent
 9 analysis to determine that?
 10 A. No.
 11 Q. And then another purpose that you
 12 list here, purpose "C," which is, "Assess the
 13 condition and the potential exposure hazard
 14 to asbestos of the building occupants and
 15 maintenance personnel at the sites."
 16 What did you do to that?
 17 A. Assessing the condition is
 18 practically based on visual observations.
 19 Q. What about assessing the potential
 20 asbestos exposure hazard, how would you do
 21 that?
 22 A. The potential, that's why I have
 23 the word potential there. Once I determined,
 24 or I observed the condition of the material
 25 and its friability, since I did not do an

1 Franco Seif
 2 exposure assessment, the potential for
 3 exposure hazard becomes, if the material is
 4 friable and it is not in good damage and the
 5 situation that I saw in some of these
 6 buildings gave me the inclination that there
 7 could be a potential for exposure in these
 8 buildings.
 9 Q. So you attempted to assess the
 10 presence of asbestos and the condition of
 11 asbestos; is that correct?
 12 A. Correct.
 13 Q. Mr. Seif, why is asbestos
 14 hazardous?
 15 A. Although this is probably more to a
 16 toxicologist but, you know, health hazard is
 17 one of the first items that we study once you
 18 get into this industry, and based on
 19 toxicology reports that asbestos causes
 20 asbestosis, it cause us mesothelioma, it
 21 causes lung cancer, and other organs also can
 22 be effected by the exposure to the asbestos
 23 fibers.
 24 Q. Do you understand that exposure to
 25 be through inhalation of asbestos fibers?

1 Franco Seif
 2 A. Yes.
 3 Q. But you didn't assess inhalation
 4 risks with respect this report, did you?
 5 A. No.
 6 Q. How would you do that?
 7 A. We would have conducted an exposure
 8 assessment, which is through the collection
 9 of air samples over certain period of time in
 10 each building.
 11 Q. How long has the asbestos been in
 12 these buildings?
 13 MR. MANDELSBERG: Objection.
 14 A. I'm not aware.
 15 Q. Would it surprise you to know that
 16 it has been in some of these buildings as
 17 early as 1956?
 18 MR. MANDELSBERG: Objection.
 19 A. No.
 20 Q. You don't have any information one
 21 way or the other?
 22 A. I do not have any information.
 23 Q. Okay.
 24 In Paragraph 3.1, in connection
 25 with the Fairview Development Center, the

1 Franco Seif
 2 A. Because I taken the sample, I
 3 realize that I'm touching fireproofing
 4 directly.
 5 Q. Just by taking the samples --
 6 A. Yes.
 7 Q. How can you differentiate between
 8 the two?
 9 A. There was a very thin layer of
 10 paint on the fireproofing, and then it was
 11 the -- it was the fireproofing, which was
 12 very surprising to me because I have never
 13 seen this application before.
 14 Q. I guess, how would you determine
 15 just by touching it that's it fireproofing as
 16 opposed to acoustical plaster?
 17 A. It was not just by touching it.
 18 Q. Okay.
 19 A. I was taking a sample and I
 20 realized that directly above the thin layer
 21 of paint I am touching fireproofing directly,
 22 which was very loose, very -- fell directly
 23 into the container that I was taking the
 24 sample from, and when I took the sample to
 25 the lab, I asked the lab analyst, you know,

1 Franco Seif
 2 second paragraph there describes material
 3 that were you looking at.
 4 In the second sentence is says, "In
 5 general, the ceiling system is comprised of
 6 gypsum button-board supporting layers of
 7 steel wire lath, spray-applied fireproofing,
 8 and paint. The fireproofing is exposed to
 9 the occupied space of the building."
 10 Do you see that reference?
 11 A. Yes.
 12 Q. Now, in that building you're
 13 talking really about acoustical plaster, not
 14 fireproofing; is that correct?
 15 A. That's why I initially when I
 16 looked it, that's what I thought. It looked
 17 like acoustical plaster, and to my surprise
 18 it was not acoustical plaster, but it
 19 appeared that after painting the surface for
 20 such a long time, it had -- it gave the
 21 impression that it was acoustical plaster.
 22 Q. It was fireproofing on the ceiling?
 23 A. Yes.
 24 Q. How you could tell it was
 25 fireproofing rather than acoustical plaster?

1 Franco Seif
 2 to see if that first layer that's, you know,
 3 if there is asbestos in that first layer,
 4 what is that first layer, and we realized
 5 that it was just paint. There was no plaster
 6 application there.
 7 Q. Right, but underneath paint you're
 8 telling me that there was fireproofing rather
 9 than acoustical plaster; is that correct?
 10 A. Correct.
 11 Q. Your conclusion in that regard is
 12 based on your visual observations and in
 13 touching the material?
 14 MR. MANDELSBERG: Objection.
 15 A. Visual observation, the color of
 16 the material. From my experience, gypsum
 17 plaster applied on ceiling surfaces, normally
 18 it's all consistent, it's white because
 19 gypsum is white, or dark tan or -- I'm sorry.
 20 White or offwhite color, and this one was
 21 not. This one was consistent with what I've
 22 seen in buildings, what looks like
 23 fireproofing. It is that dark tan color, as
 24 I recall.
 25 Q. Other than the dark tan color, was

1 Franco Seif
 2 there anything else that would indicate to
 3 you that this was fireproofing rather than
 4 acoustical plaster?

5 A. Yes.

6 Q. What?

7 A. The consistency and the texture of
 8 the material. Again, from my experience
 9 taking acoustic plaster samples you see a lot
 10 of round dusty type particles, and this one
 11 was not.

12 Q. Okay.

13 You said here that this material
 14 was painted; is that correct?

15 A. Yes.

16 Q. Do you understand in your
 17 experience that painting affectively
 18 encapsulates the material?

19 MR. MANDELSBERG: Objection.

20 A. It provides some type of
 21 encapsulation, yes. But it's not the proper
 22 way to encapsulate asbestos material.

23 Q. But it does provide some type of
 24 encapsulation?

25 MR. MANDELSBERG: Objection.

1 Franco Seif
 2 occupied space of the building."
 3 When in the life of the building
 4 would that occur?
 5 A. Is this for the next building?
 6 Q. Yes, for the Ventura County, and
 7 the language, as you know, is in several of
 8 the different buildings, but just as a
 9 general matter, this idea, this concept of
 10 air movement causing erosion, in your view,
 11 when would that happen in the life of a
 12 building?

13 A. Any time and every time the HVA
 14 system is running there is that likelihood
 15 that there is air erosion.

16 Q. Would you expect HVA system to
 17 start running around the time that the
 18 building construction has been completed?

19 A. Definitely before it is occupied.

20 Q. Which normally would be within the
 21 first year after construction, would you say?

22 A. Maybe.

23 Q. Okay.

24 When did you first understand this
 25 to be the case?

1 Franco Seif

2 A. It should.

3 Q. You state then on the next page
 4 "that this particular material had been
 5 painted with several layers of paint." It's
 6 the second paragraph. And then you say that
 7 "this was confirmed by maintenance personnel
 8 in the building who stated that the ceiling
 9 surface is painted on a regular basis."

10 Do you know how often this ceiling
 11 was painted?

12 A. No.

13 Q. Did the maintenance personnel tell
 14 you how long that material had been on the
 15 ceiling?

16 A. No.

17 Q. Did they tell you that they knew
 18 that there was asbestos in that material?

19 A. I do not recall if they told me.

20 Q. And down towards the end of that
 21 page, in Section 3.2, the very last
 22 paragraph, second sentence, you state that,
 23 "The air movement will most likely cause
 24 erosion of the applied fireproofing material
 25 and thus carry asbestos fibers into the

1 Franco Seif

2 MR. MANDELSBERG: Objection.

3 Q. I apologize. That is a poorly
 4 worded question.

5 When did you develop the opinion
 6 that air movement could cause erosion to the
 7 applied fireproofing material?

8 A. From the time I developed some
 9 logic about air erosion. It doesn't have to
 10 -- the speed of air causes erosion on any
 11 material.

12 Q. Would you say that's an opinion
 13 that you've held for the past almost 20
 14 years?

15 A. Yes.

16 Q. Have you advised building owners
 17 over the past twenty years of this opinion?

18 A. Yes.

19 Q. And if you wanted to know whether
 20 that air movement had actually eroded
 21 materials, would you take air samples?

22 A. Well, taking air samples have to be
 23 a part of taking air samples. I'm not sure
 24 if I'm being clear or not because if I take
 25 an air sample today in this room, as part of

Page 54

Page 56

1 Franco Seif
2 determining — assuming there is fireproofing
3 up in this decking here, and we've taken air
4 samples yesterday, the air sample really
5 constitutes the volume of air that I collect
6 in the period of time that I collected the
7 samples. If I take it for one hour, it is
8 for this one hour. If in this one hour there
9 are no fibers that are being dislodged or
10 released into this office space, then the air
11 sample will show that there are no fibers
12 released into this office space, but it
13 doesn't mean that is the case at all times.
14 That's why we say, you know, it is a
15 potential. There is a potential for fiber
16 release, there is a potential for hazard, and
17 then at that time it would depend on the
18 occupants of this office to say, well, we
19 know there is asbestos there, but we're not
20 going to worry about it because we hired
21 somebody who took an air sample for one hour
22 and didn't find any asbestos, but once they
23 know the importance of having asbestos in the
24 office space, and that fibers could be
25 released any time, any movement, and that any

1 Franco Seif
2 And you said before, you used the
3 words in your report potential of hazard.
4 How would you determine whether
5 that potential became an actuality?
6 A. If somebody becomes sick maybe or,
7 you know...
8 Q. Did you do any air sample testing
9 in any of these buildings?
10 A. No.
11 Q. Are you aware of any air sample
12 testing that has been done on these
13 buildings?
14 A. I'm not aware.
15 Q. You don't know of any air sample
16 testing then that would exceed ETA levels in
17 these buildings?
18 A. I'm not aware.
19 Q. You don't know of any air sample
20 testing that would exceed OSHA levels in
21 these building?
22 A. I don't know.
23 Q. Do you know of any scientific
24 studies that have shown that air movement in
25 the air space between the suspended ceiling

Page 55

Page 57

1 Franco Seif
2 time, any moment could be when nobody has
3 taken air samples, you know, then it becomes
4 an issue.

5 Q. Okay, and my question was a little
6 bit different.

7 I just want to know, if you wanted
8 to test the theory that air movement from the
9 HVAC was causing erosion to the fireproofing,
10 would one of the ways to test that be through
11 air sampling, generally?

12 A. Not necessarily.

13 Q. How would you test that theory?

14 A. The theory is tested -- the theory
15 exists based on physics, not based on air
16 tests. If there is air moving around
17 material, especially if the material is
18 friable, then that air will begin to erode
19 that material and carries with it whatever
20 that material contains, whether it's silica
21 or whether it's asbestos fibers, or whether
22 it's any other cellulose-based fibers, the
23 air erodes at the material. It is based on
24 physics.

25 Q. Okay.

1 Franco Seif
2 and the fireproofing actually causes erosion
3 of the applied fireproofing material and
4 carries asbestos fiber into the occupied
5 space?

6 A Any studies?

7. Ω Ibh-huh

8 A I'm not aware of any studies

Q If we can move to the next page

10 it's 3.3. We're now on Office Building
11 Number 8 on Page 5 of your report.

11 Number 8 on page 5 of your report.
12 It says in the very first paragraph
13 that this was an 18-story structural steel
14 building that was vacant.

15 Do you know why the building was
16 vacant?

17 A Yes

18 Why?

18 Q. Why?
19 A. Because they were removing all the
20 fireproofing from the building.

Q. How long had the building been vacant?

23 A I'm not aware

Q. In the fourth paragraph there you talk again about the HVAC system and then

1 Franco Seif
 2 the fourth sentence down you say, "Vibration
 3 could be caused by several factors, such as
 4 moving furniture or heavy office equipment
 5 and that this may exacerbate the exposure to
 6 asbestos in the occupied space."

7 A. Yes.

8 Q. When in the life of the building
 9 would vibrations start to occur?

10 A. At the time people begin to walk on
 11 the floor above that -- above where the
 12 surface is applied.

13 Q. So that would be as soon as the
 14 building is occupied?

15 A. Yes.

16 Q. This opinion that vibration can
 17 exacerbate exposure, have you held that
 18 opinion over the course of the last twenty
 19 years?

20 A. Yes, both of these, the vibration
 21 and the air erosion are also taken from the
 22 EPA standards.

23 Q. Have you advised building owners
 24 about this vibration issue over the past
 25 twenty years?

1 Franco Seif
 2 Q. The very last paragraph on the same
 3 page, it's on Page 5, starting with
 4 "Furthermore."

5 MR. MANDELSBERG: The first
 6 sentence of the last paragraph.

7 A. Okay.

8 "Furthermore, the --

9 Q. -- presence of friable
 10 fireproofing material and the evidence of
 11 fireproofing debris that settle on a ceiling
 12 tile indicates that the potential of exposure
 13 to asbestos is high for maintenance personnel
 14 when conducting activities above the
 15 suspended ceiling."

16 Do you see that?

17 A. Yes, now I see.

18 Q. Now, that debris there, did you
 19 test the asbestos content of that debris?

20 A. In some instances, we tested
 21 debris, and just for verification purposes,
 22 but in most of the time, you could see that
 23 the debris settled on the ceiling material is
 24 consistent in texture and appearance to the
 25 fireproofing that's on the decking.

1 Franco Seif

2 A. Yes.

3 Q. Have you seen any scientific
 4 studies that establish that vibrations causes
 5 exacerbation of exposure to the occupied
 6 areas of asbestos fibers?

7 A. I haven't seen scientific studies.
 8 I have seen evidence.

9 Q. You have seen no formal studies,
 10 though, that would establish it?

11 A. No, I have not.

12 Q. In the next paragraph, the very
 13 first sentence says, "The presence of friable
 14 fireproofing material and the evidence of
 15 fireproofing debris that settled on the
 16 ceiling tile indicates that the potential of
 17 exposure to asbestos is high for maintenance
 18 personnel when conducting activities above
 19 the suspended ceiling."

20 My first question for you is, is
 21 the debris that you're talking about there,
 22 did you test the asbestos content of that
 23 debris?

24 A. I'm sorry. Could you -- I didn't
 25 see where --

1 Franco Seif

2 Q. Did you find respirable fibers in
 3 the debris of asbestos?

4 A. I'm sorry? Could you repeat that?

5 Q. Did you find respirable asbestos
 6 fibers in that debris.

7 A. We didn't test for respirable
 8 fibers.

9 Q. So you were just confirming, again,
 10 the presence of potentially asbestos
 11 containing materials?

12 A. Yes.

13 Q. And you talk about this exposure to
 14 asbestos when personnel are conducting
 15 activities above the suspended ceiling.

16 Do you know how often maintenance
 17 workers would conduct activities above the
 18 suspended ceiling in this building?

19 A. No.

20 Q. Did you look at any building logs
 21 or anything along that line to determine when
 22 maintenance was going on there?

23 A. No.

24 Q. Do you know what the exposure level
 25 would be when the material was accessed?

1 Franco Seif
 2 A. No.
 3 Q. When you talk about normal routine
 4 activities in maintenance activities, when,
 5 again, in the life of the building would
 6 those types of activities first start to take
 7 place?
 8 A. As soon as maintenance is needed on
 9 any level inside of the building.
 10 Q. In your experience, would that be
 11 early on in the life of the building?
 12 MR. MANDELSBERG: Objection.
 13 A. It would be speculative, so I
 14 probably should not comment on it.
 15 Q. Okay.
 16 The last sentence of that paragraph
 17 says that these areas should be cleaned on a
 18 regular basis because of the potential for
 19 asbestos exposure.
 20 Would you recommend dry rag dusting
 21 as part of that cleaning?
 22 A. No.
 23 Q. Why not?
 24 A. That would be an activity that will
 25 cause elevated levels of fibers to become

1 Franco Seif
 2 the tender of the fibers airborne.
 3 Q. You've been telling folks that for
 4 the last twenty years?
 5 A. Yes.
 6 Q. Okay.
 7 If we can turn to Page 6 of your
 8 report, 3.4, in the discussion of Office
 9 Building Number 9, are you with me there?
 10 A. Yes.
 11 Q. The very last sentence of that
 12 first paragraph says, "The ceiling tiles in
 13 the building also contains asbestos product."
 14 Do you see that?
 15 A. The last paragraph -- I'm sorry.
 16 Q. The first paragraph, the last
 17 sentence, Section 3.4 --
 18 A. Yes, yes.
 19 Q. Okay.
 20 -- are the ceiling tiles in this
 21 building releasing asbestos fibers?
 22 A. If you try to lift them up, there
 23 is that potential, yes.
 24 Q. Other than fireproofing, acoustical
 25 plasters, and ceiling tile, did you look for

1 Franco Seif
 2 airborne.
 3 Q. Have you recommended not doing that
 4 to building owners?
 5 A. Sure.
 6 Q. How long have you been making those
 7 sorts of recommendations?
 8 A. Since I've learned that you do not
 9 dry sweep asbestos containing material.
 10 Q. Was that roughly in 1987?
 11 A. Yes.
 12 Q. How about dry brushing the
 13 material?
 14 A. No.
 15 Q. Same response, wouldn't recommend
 16 it?
 17 A. Yes.
 18 Q. Haven't recommended it in the last
 19 twenty years?
 20 A. Yes.
 21 Q. How about blowing the material off
 22 surfaces with an aerosol can of air spray?
 23 A. It's not recommended.
 24 Q. Why not?
 25 A. Again, for the same reason, just

1 Franco Seif
 2 any other asbestos containing materials in
 3 these buildings?
 4 A. I did not attempt to, no.
 5 Q. Turn to Page 8 of your report, in
 6 Section 4, the expert opinion section, in
 7 4.2, it says, "It is common for friable
 8 applied or sprayed-on fireproofing material
 9 to dislodge and settle on surfaces below it,
 10 such as suspended ceiling material or utility
 11 component."
 12 You've seen that sort of settling
 13 in the buildings that you've looked at in the
 14 last twenty years or so; haven't you?
 15 MR. MANDELSBERG: Objection.
 16 A. Yes.
 17 Q. Is this sort of thing in virtually
 18 any building that has fireproofing?
 19 A. Not necessarily, but it's not
 20 uncommon.
 21 Q. Have you seen buildings where there
 22 was no debris, but there was fireproofing?
 23 A. I really cannot recollect, but in
 24 most cases I could tell, or I remember in
 25 most cases that I've been involved with that

1 Franco Seif
 2 there has been some fireproofing at one point
 3 or the other got dislodged.

4 Q. In Section 4.4, the very last
 5 sentence says, "Accidental contact is a
 6 concern for exposure to asbestos," what do
 7 you mean by accidental contact?

8 A. Walking, working in spaces that
 9 contain -- that has materials that contains
 10 asbestos, where you are not attempting to
 11 work in the material that contains asbestos
 12 but you are working next to it where
 13 accidentally you brush against that material,
 14 especially if it is friable, as it is in this
 15 case, or you slip and touch that material by
 16 mistake, that type, or carrying a ladder such
 17 as in that first building that we discussed,
 18 the one down in Costa Mesa, if you're
 19 carrying a ladder and accidentally you hit
 20 the ceiling, that's right there you can cause
 21 that material to become dislodged.

22 Q. You're not suggesting, though, that
 23 touching the material is physically
 24 dangerous, the touching, the contact in and
 25 of itself, are you?

1 Franco Seif
 2 A. In terms of having a fiber released
 3 into the air that you could be exposed to.

4 Q. But the concern is that you're
 5 going to inhale it; is that correct?

6 A. The concern is that there's a fiber
 7 and you're inhaling, of course.

8 Q. Right.

9 It's not a concern that if I touch
 10 a fiber I would get sick. It's a concern if
 11 I inhale a fiber, I might get sick?

12 A. If it gets dislodged after you
 13 touch it.

14 Q. Right, I understand. I just want
 15 to make sure that I'm clear on it.

16 On 4.8 it says, "The ceiling tile
 17 in office buildings 8, 9, Subsection 4.3 and
 18 4.4 is also friable." And that's the ceiling
 19 tile we talked about before.

20 And it's your opinion that when
 21 that tile is moved, it is releasing asbestos
 22 fiber; is that correct?

23 A. Yes.

24 Q. Do you believe that maintenance
 25 workers may be moving those tiles on a

1 Franco Seif

2 A. Touching means like laying your
 3 hand softly and just removing it?

4 Q. Sure.

5 A. I don't know if that could be a
 6 potential for exposure.

7 Q. I just want to make sure that I
 8 understand what you're saying here.

9 Is what you're saying that contact
 10 is a concern because it may disturb the
 11 material and therefore cause release of
 12 respirable fibers into the air?

13 A. Contact, yes.

14 Q. But you're not saying that if I
 15 touch asbestos, I might get sick from the
 16 contact between my finger and the
 17 asbestos?

18 A. If you touch friable material and
 19 there are -- that happens to be some fibers
 20 sticking out and you just touch it and it
 21 gets dislodged, then there's the potential of
 22 you being exposed to that fiber that got
 23 dislodged.

24 Q. In terms of respiration of the
 25 fiber?

1 Franco Seif
 2 routine basis?

3 A. If they have to do maintenance
 4 above the ceiling, they have to remove those
 5 ceiling tiles.

6 Q. Are you aware that W.R. Grace did
 7 not manufacture ceiling tiles?

8 A. I'm not aware.

9 Q. Paragraph 4.11 on the next page,
 10 Page 9, it says that your expert opinion is
 11 that friable fireproofing material should be
 12 abated, and when you talk about removal,
 13 encapsulation and enclosure, and you seem to
 14 indicate that in your expert opinion that
 15 material should be removed; is that correct?

16 A. Yes.

17 Q. Why do you conclude that the
 18 material should be removed?

19 A. When it comes to friable material,
 20 for the last twenty years, the recommendation
 21 of removal, enclosure and encapsulation has
 22 always been there because that's what the EPA
 23 recommends, but when material is friable,
 24 removal is the only solution that in the long
 25 term provides owners with the security that

1 Franco Seif
 2 there is no potential exposure to asbestos
 3 anymore in the building, while the other
 4 solutions will always give that -- the
 5 indication that there could be potential
 6 exposure to the fibers, whether you
 7 encapsulate it or you enclose it, there's
 8 always that risk that you could exposure to
 9 asbestos fibers.

10 Q. So is it your opinion that any
 11 friable asbestos containing material should
 12 be removed from a building?

13 A. Yes.

14 Q. And that opinion wouldn't change
 15 one way or the other whether you had air
 16 sample testing that fell below EPA or OSHA
 17 guidelines?

18 A. Yes.

19 Q. It would change or it would not
 20 change?

21 A. My opinion would not change.

22 Q. Are you familiar with the EPA's
 23 green book message?

24 A. Yes.

25 Q. Is that message that asbestos

1 Franco Seif
 2 Q. Mr. Seif, can you tell me, do you
 3 know of anyone who has gotten sick as a
 4 result of exposure to asbestos in any of
 5 these buildings?

6 A. In these buildings, no.

7 MS. REA: Can we take a
 8 brief break.

9 (Whereupon, a recess was
 10 taken at this time.)

11 MS. REA: Mr. Seif, thank
 12 you very much.

13 I have no more questions
 14 today. I don't know if your
 15 counsel has any that he would like
 16 to follow-up on.

17 MR. MANDELSBERG: We don't
 18 have any questions.

19 Thank you.

20 MS. REA: Would you like to
 21 read and sign?

22 MR. MANDELSBERG: Yes, we
 23 want an original of the transcript
 24 which we ask you send to us
 25 directly and we will arrange to

1 Franco Seif
 2 should be maintained in place?
 3 MR. MANDELSBERG: Objection.
 4 A. There are -- it's one of the
 5 recommendations. Operations and maintenance
 6 -- in the green book, in the purple book, and
 7 even with the EPA, operations and maintenance
 8 is an alternative, but it is also a temporary
 9 alternative.

10 Q. Mr. Seif, we've talked a lot about
 11 your report today, and I just want to make
 12 sure that I'm clear what it was designed to
 13 do and what I believe you're saying that
 14 you're doing here.

15 Would you agree with me that what
 16 your report purports to do is to confirm the
 17 presence of asbestos in the building and the
 18 condition of that asbestos?

19 MR. MANDELSBERG: Objection.

20 A. And the friability situation.

21 Q. It does not purport to do a hazard
 22 assessment?

23 A. No.

24 MR. MANDELSBERG: Objection.
 25 Asked and answered.

1 Franco Seif
 2 have Mr. Seif read it, sign it
 3 before a notary and return it to
 4 counsel.

5 -oo-

6 (Whereupon, the examination
 7 of FRANCO SEIF was concluded at
 8 12:30 p.m.)

9
 10
 11
 12
 13
 14
 15 FRANCO SEIF
 16
 17
 18
 19
 20 Subscribed and sworn to
 21 before me this _____ day
 22 of _____, 2007.
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53
 54
 55
 56
 57
 58
 59
 60
 61
 62
 63
 64
 65
 66
 67
 68
 69
 70
 71
 72
 73
 74
 75
 76
 77
 78
 79
 80
 81
 82
 83
 84
 85
 86
 87
 88
 89
 90
 91
 92
 93
 94
 95
 96
 97
 98
 99
 100
 101
 102
 103
 104
 105
 106
 107
 108
 109
 110
 111
 112
 113
 114
 115
 116
 117
 118
 119
 120
 121
 122
 123
 124
 125
 126
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140
 141
 142
 143
 144
 145
 146
 147
 148
 149
 150
 151
 152
 153
 154
 155
 156
 157
 158
 159
 160
 161
 162
 163
 164
 165
 166
 167
 168
 169
 170
 171
 172
 173
 174
 175
 176
 177
 178
 179
 180
 181
 182
 183
 184
 185
 186
 187
 188
 189
 190
 191
 192
 193
 194
 195
 196
 197
 198
 199
 200
 201
 202
 203
 204
 205
 206
 207
 208
 209
 210
 211
 212
 213
 214
 215
 216
 217
 218
 219
 220
 221
 222
 223
 224
 225
 226
 227
 228
 229
 230
 231
 232
 233
 234
 235
 236
 237
 238
 239
 240
 241
 242
 243
 244
 245
 246
 247
 248
 249
 250
 251
 252
 253
 254
 255
 256
 257
 258
 259
 260
 261
 262
 263
 264
 265
 266
 267
 268
 269
 270
 271
 272
 273
 274
 275
 276
 277
 278
 279
 280
 281
 282
 283
 284
 285
 286
 287
 288
 289
 290
 291
 292
 293
 294
 295
 296
 297
 298
 299
 300
 301
 302
 303
 304
 305
 306
 307
 308
 309
 310
 311
 312
 313
 314
 315
 316
 317
 318
 319
 320
 321
 322
 323
 324
 325
 326
 327
 328
 329
 330
 331
 332
 333
 334
 335
 336
 337
 338
 339
 340
 341
 342
 343
 344
 345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387
 388
 389
 390
 391
 392
 393
 394
 395
 396
 397
 398
 399
 400
 401
 402
 403
 404
 405
 406
 407
 408
 409
 410
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420
 421
 422
 423
 424
 425
 426
 427
 428
 429
 430
 431
 432
 433
 434
 435
 436
 437
 438
 439
 440
 441
 442
 443
 444
 445
 446
 447
 448
 449
 450
 451
 452
 453
 454
 455
 456
 457
 458
 459
 460
 461
 462
 463
 464
 465
 466
 467
 468
 469
 470
 471
 472
 473
 474
 475
 476
 477
 478
 479
 480
 481
 482
 483
 484
 485
 486
 487
 488
 489
 490
 491
 492
 493
 494
 495
 496
 497
 498
 499
 500
 501
 502
 503
 504
 505
 506
 507
 508
 509
 510
 511
 512
 513
 514
 515
 516
 517
 518
 519
 520
 521
 522
 523
 524
 525
 526
 527
 528
 529
 530
 531
 532
 533
 534
 535
 536
 537
 538
 539
 540
 541
 542
 543
 544
 545
 546
 547
 548
 549
 550
 551
 552
 553
 554
 555
 556
 557
 558
 559
 560
 561
 562
 563
 564
 565
 566
 567
 568
 569
 570
 571
 572
 573
 574
 575
 576
 577
 578
 579
 580
 581
 582
 583
 584
 585
 586
 587
 588
 589
 590
 591
 592
 593
 594
 595
 596
 597
 598
 599
 600
 601
 602
 603
 604
 605
 606
 607
 608
 609
 610
 611
 612
 613
 614
 615
 616
 617
 618
 619
 620
 621
 622
 623
 624
 625
 626
 627
 628
 629
 630
 631
 632
 633
 634
 635
 636
 637
 638
 639
 640
 641
 642
 643
 644
 645
 646
 647
 648
 649
 650
 651
 652
 653
 654
 655
 656
 657
 658
 659
 660
 661
 662
 663
 664
 665
 666
 667
 668
 669
 670
 671
 672
 673
 674
 675
 676
 677
 678
 679
 680
 681
 682
 683
 684
 685
 686
 687
 688
 689
 690
 691
 692
 693
 694
 695
 696
 697
 698
 699
 700
 701
 702
 703
 704
 705
 706
 707
 708
 709
 710
 711
 712
 713
 714
 715
 716
 717
 718
 719
 720
 721
 722
 723
 724
 725
 726
 727
 728
 729
 730
 731
 732
 733
 734
 735
 736
 737
 738
 739
 740
 741
 742
 743
 744
 745
 746
 747
 748
 749
 750
 751
 752
 753
 754
 755
 756
 757
 758
 759
 760
 761
 762
 763
 764
 765
 766
 767
 768
 769
 770
 771
 772
 773
 774
 775
 776
 777
 778
 779
 780
 781
 782
 783
 784
 785
 786
 787
 788
 789
 790
 791
 792
 793
 794
 795
 796
 797
 798
 799
 800
 801
 802
 803
 804
 805
 806
 807
 808
 809
 810
 811
 812
 813
 814
 815
 816
 817
 818
 819
 820
 821
 822
 823
 824
 825
 826
 827
 828
 829
 830
 831
 832
 833
 834
 835
 836
 837
 838
 839
 840
 841
 842
 843
 844
 845
 846
 847
 848
 849
 850
 851
 852
 853
 854
 855
 856
 857
 858
 859
 860
 861
 862
 863
 864
 865
 866
 867
 868
 869
 870
 871
 872
 873
 874
 875
 876
 877
 878
 879
 880
 881
 882
 883
 884
 885
 886
 887
 888
 889
 890
 891
 892
 893
 894
 895
 896
 897
 898
 899
 900
 901
 902
 903
 904
 905
 906
 907
 908
 909
 910
 911
 912
 913
 914
 915
 916
 917
 918
 919
 920
 921
 922
 923
 924
 925
 926
 927
 928
 929
 930
 931
 932
 933
 934
 935
 936
 937
 938
 939
 940
 941
 942
 943
 944
 945
 946
 947
 948
 949
 950
 951
 952
 953
 954
 955
 956
 957
 958
 959
 960
 961
 962
 963
 964
 965
 966
 967
 968
 969
 970
 971
 972
 973
 974
 975
 976
 977
 978
 979
 980
 981
 982
 983
 984
 985
 986
 987
 988
 989
 990
 991
 992
 993
 994
 995
 996
 997
 998
 999
 1000
 1001
 1002
 1003
 1004
 1005
 1006
 1007
 1008
 1009
 10010
 10011
 10012
 10013
 10014
 10015
 10016
 10017
 10018
 10019
 10020
 10021
 10022
 10023
 10024
 10025
 10026
 10027
 10028
 10029
 10030
 10031
 10032
 10033
 10034
 10035
 10036
 10037
 10038
 10039
 10040
 10041
 10042
 10043
 10044
 10045
 10046
 10047
 10048
 10049
 10050
 10051
 10052
 10053
 10054
 10055
 10056
 10057
 10058
 10059
 10060
 10061
 10062
 10063
 10064
 10065
 10066
 10067
 10068
 10069
 10070
 10071
 10072
 10073
 10074
 10075
 10076
 10077
 10078
 10079
 10080
 10081
 10082
 10083
 10084
 10085
 10086
 10087
 10088
 10089
 10090
 10091
 10092
 10093
 10094
 10095
 10096
 10097
 10098
 10099
 100100
 100101
 100102
 100103
 100104
 100105
 100106
 100107
 100108
 100109
 100110
 100111
 100112
 100113
 100114
 100115
 100116
 100117
 100118
 100119
 100120
 100121
 100122
 100123
 100124
 100125
 100126
 100127
 100128
 100129
 100130
 100131
 100132
 100133
 100134
 100135
 100136
 100137
 100138
 100139
 100140
 100141
 100142
 100143
 100144
 100145
 100146
 100147
 100148
 100149
 100150
 100151
 100152
 100153
 100154
 100155
 100156
 100157
 100158
 100159
 100160
 100161
 100162
 100163
 100164
 100165
 100166
 100167
 100168
 100169
 100170
 100171
 100172
 100173
 100174
 100175
 100176
 100177
 100178
 100179
 100180
 100181
 100182
 100183
 100184
 100185
 100186
 100187
 100188
 100189
 100190
 100191
 100192
 100193
 100194
 100195
 100196
 100197
 100198
 100199
 100200
 100201
 100202
 100203
 100204
 100205
 100206
 100207
 100208
 100209
 100210
 100211
 100212
 100213
 100214
 100215
 100216
 100217
 100218
 100219
 100220
 100221
 100222
 100223
 100224
 100225
 100226
 100227
 100228
 100229
 100230
 100231
 100232
 100233
 100234
 100235
 100236
 100237
 100238
 100239
 100240
 100241
 100242
 100243
 100244
 100245
 100246
 100247
 100248
 100249
 100250
 100251
 100252
 100253
 100254
 100255
 100256

Page 74

1
2 ----- INDEX -----
3

4 WITNESS EXAMINATION BY PAGE
5 FRANCO SEIF MS. REA 5
6
7

8 ----- EXHIBITS -----
9

10 EXHIBIT FOR ID.
11 1 Document 7
12 2 Documents 11
13 3 Report 27
14

15 (Exhibits 1 and 3 retained by reporter.)
16 -----
17
18
19
20
21
22
23
24
25

Page 75

1
2 CERTIFICATE
3

4 STATE OF NEW YORK)

5 : ss.

6 COUNTY OF QUEENS)

7 I, AYDIL M. TORRES, a Notary Public
8 within and for the State of New York, do
9 hereby certify:

10 That FRANCO SEIF, the witness whose
11 deposition is hereinbefore set forth, was
12 duly sworn by me and that such deposition is
13 a true record of the testimony given by the
14 witness.

15 I further certify that I am not
16 related to any of the parties to this action
17 by blood or marriage, and that I am in no way
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 5th day of April, 2007.

21
22
23
24
25
AYDIL M. TORRES